

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Constantino Basile,

Plaintiff(s),

vs.

The Los Angeles Film School LLC, et al.,

Defendant(s).

2:24-cv-00108-APG-MDC

**Report and Recommendation To Deny
Plaintiff's Motion for Relief Per FRCP 60(b)(6)**

I have reviewed plaintiff's *Motion for Relief Per FRCP 60(b)(6)* (ECF No. 95).¹ In his motion, plaintiff requests to vacate the District Judge's Order (ECF No. 88) granting Santa Monica's motion to dismiss and to *sua sponte* amend plaintiff's complaint with certain evidence plaintiff claims to be newly discovered. I recommend denying plaintiff's motion as moot because plaintiff has filed a first amended complaint (ECF No. 103) which includes the purported new evidence (*see e.g.*, ECF No. 103-5).

Accordingly,

I RECOMMEND that plaintiff's *Motion for Relief Per FRCP 60(b)(6)* (ECF No. 95) be **DENIED as moot**.

DATED this 6th day of November 2024.

IT IS SO RECOMMENDED.


Hon. Maximiliano D. Couvillier III
United States Magistrate Judge

NOTICE

Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk

¹ Plaintiff filed his *Motion for Relief Per FRCP 60(b)(6)* in the same brief as his *Motion in Opposition to Santa Monica's Motion to Quash*. See ECF No. 95. I have addressed plaintiff's *Motion in Opposition to Santa Monica's Motion to Quash* in a separate Order.

1 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
2 may determine that an appeal has been waived due to the failure to file objections within the specified
3 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
4 objections within the specified time and (2) failure to properly address and brief the objectionable issues
5 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
6 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
7 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, plaintiffs must immediately file written
8 notification with the court of any change of address. The notification must include proof of service upon
9 each opposing party's attorney, or upon the opposing party if the party is unrepresented by counsel.

10 **Failure to comply with this rule may result in dismissal of the action.**
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